

## Message Text

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INFO USMISSION USNATO BRUSSELS

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AMEMBASSY SOFIA

USNMR SHAPE

USCINCEUR

USDOCOSOUTH

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USMISSION USUN NEW YORK

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SUBJ: CSCE REVIEW: PART II - DECLARATION OF PRINCIPLES AND  
IMPLEMENTING MEASURES

SUMMARY. THREE MONTHS OF GENERAL DEBATE IN THE SUBCOMMITTEE ON  
THE DECLARATION OF PRINCIPLES, DURING WHICH IT HAS REVIEWED SEVEN  
OF THE TEN HELSINKI PRINCIPLES, HAS REVEALED THE EXPECTED DIFFER-  
ENCES OF APPROACH BETWEEN THE EASTERN AND WESTERN PARTICIPANTS.  
SOMEWHAT SURPRISINGLY, THE SOVIETS HAVE NOT YET SHOWN STRONG  
RESISTANCE TO LANGUAGE INTENDED BY THE WEST TO UNDERCUT THE  
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BREZHNEV DOCTRINE, PLACING THEIR MAIN EMPHASIS ON THE ISSUES OF  
INVIOABILITY OF BORDERS, THE ENDORSEMENT OF PRESENT FRONTIERS,  
AND THEIR SPECIAL VIEW OF NONINTERVENTION. WHILE THERE ARE  
OBVIOUS PITFALLS TO BE AVOIDED, THE OTLOOK IS FOR RESULTS IN ALL

THESE AREAS WHICH WILL HAVE NEITHER FAR-REACHING ADVANTAGES NOR SIGNIFICANT DISADVANTAGES FOR THE US. IN THE SPECIAL WORKING BODY (SWB) THE AMBITIOUS SWISS PROPOSAL FOR A NEW INSTITUTION FOR COMPULSORY ARBITRATION AND CONCILIATION IS NEARLY DEAD; SOVIET AND ROMANIAN PROPOSALS IN THE SWB, BOTH OF WHICH RAISE THE KEY QUESTION OF POLITICAL FOLLOW-ON, ARE NOT LIKELY TO SURVIVE INTACT.

1. REVIEW OF WORK TO DATE. THE SUBCOMMITTEE ON PRINCIPLES HAS DEBATED IN GENERAL TERMS THE FORM AND CHARACTER OF THE DECLARATION, ITS PREAMBLE AND, TO THIS DATE, SEVEN OF THE TEN INDIVIDUAL PRINCIPLES LISTED IN THE MANDATE OF THE COMMITTEE. DEBATE HAS FOLLOWED FAIRLY PREDICATABLE LINES AND INDICATED A LARGE MEASURE OF AGREEMENT TO REMAIN, FOR THE MOST PART, WITHIN THE FRAMEWORK OF CONCEPTS PREVIOUSLY ADOPTED IN THE UN FRIENDLY RELATIONS DECLARATION, BUT WITH NO RIGOROUS COMMITMENT TO ITS PRECISE WORDING. THE FRENCH DRAFT HAS RECEIVED THE BROADEST GENERAL SUPPORT. A GENERAL "UNDERSTANDING" HAS EMERGED THAT DRAFTING WILL BEGIN SOON AFTER THE HOLIDAY PAUSE. WITH REGARD TO POSSIBILITIES FOR IMPLEMENTATION OF THE PRINCIPLES, A SPECIAL WORKING BODY HAS HAD A LONG GENERAL DEBATE ON THE BASIS OF A SWISS PROPOSAL FOR A SYSTEM FOR PEACEFUL SETTLEMENT OF DISPUTES, A WIDE-RANGING ROMANIAN PROPOSAL FOCUSING ON CONCLUSION OF A NON-USE OF FORCE TREATY, AND A SOVIET PROPOSAL FOR MULTILATERAL POLITICAL CONSULTATION. ON THE BASIS OF THIS DISCUSSION THE SWISS IDEA ALREADY SEEMS DEAD AND THE OTHERS APPEAR UNLIKELY TO SURVIVE INTACT.

2. CENTRAL ISSUES AND LIKELY OUTCOMES. A. CHARACTER AND FORM OF THE DECLARATION. WHILE THERE IS APPARENT AGREEMENT THAT THE DECLARATION SHOULD BE A POLITICAL DOCUMENT, RATHER THAN A LEGALLY BINDING ONE, THERE ARE CONFLICTING TRENDS, AND THE NON-BINDING NATURE OF THE DECLARATION CANNOT BE TAKEN FOR GRANTED. THE EASTERN BLOC HAS SAID THAT THE DOCUMENT SHOULD BE POLITICALLY BINDING, BUT HAS ARGUED THAT THERE IS NO REAL DIFFERENCE BETWEEN THAT AND A LEGALLY BINDING DOCUMENT; THEY WANT THE DECLARATION TO BE SIGNED AT THE HIGHEST LEVEL AND TO BE SUPERIOR TO THE OTHER CONFERENCE PRODUCTS. THE FRENCH HAVE SUGGESTED AN "EXECUTIVE AGREEMENT" CONTAINING LEGAL OBLIGATIONS BUT SHORT OF A FORMAL TREATY. FURTHER, THE GENERAL DEBATE INDICATES THAT MOST DELEGATES ARE APPROACHING THE FORMULATION OF THE VARIOUS PRINCIPLES IN THE DECLARATION AS STATEMENTS OF NORMS OF INTERNATIONAL LAW, WITH MERELY SOME SPECIAL EMPHASIS AND REFORMULATION TO MEET THE SITUATION IN EUROPE. THE FINAL DECLARATION WILL PROBABLY LEND ITSELF TO VARYING VIEWS OF ITS LEGAL STATUS AND EFFECT, LEAVING THE UNITED STATES AND OTHERS FREE TO SAY THAT IT DEALS WITH LEGAL PRINCIPLES BUT IS A NONLEGAL DECLARATION, BINDING ONLY IN A POLITICAL SENSE (AND, THEREFORE, EFFECTIVELY SUBJECT TO DISCLAIMER ON THE SPECIAL SITUATION IN GERMANY). IT IS UNLIKELY TO BE SIGNED SEPARATELY AND GIVEN THE SPECIAL STATUS SOUGHT BY THE SOVIETS.

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B. BREZHNEV DOCTRINE. THE DECLARATION IS LIKELY TO CONTAIN SOME-

WHAT MORE SPECIFIC ANTI-BREZHNEV DOCTRINE LANGUAGE THAN WAS CONTAINED IN THE FRIENDLY RELATIONS DECLARATION. THE SOVIETS HAVE NOT INDICATED STRONG RESISTANCE TO SUCH FORMULATIONS AS THE FRENCH ADDITION TO NONINTERVENTION: "WHATEVER THEIR MUTUAL RELATIONS." INSTEAD, THEY SEEM CONTENT TO RELY ON THEIR TREATY RELATIONS IN EASTERN EUROPE OR ON SOMEOTHER FORM OF "INVITATION" FOR WHATEVER LEGAL ARGUMENTS FURTHER INTERVENTION ON THE CZECHOSLOVAKIA MODEL MIGHT REQUIRE. WHILE THE WEST MAY THEREFOR ACHIEVE SOME LANGUAGE WHICH CAN BE PORTRAYED AS UNDERMINING THE THEORY OF A SPECIAL RIGHT OF SOCIALIST INTERVENTION, IT WILL NOT, IN FACT, HAVE DEALT WITH THE BASIC PROBLEM UNDERLYING THE BREZHNEV DOCTRINE.

C. EXISTING FRONTIERS. THE PRIME SOVIET DESIDERATUM IN THE DECLARATION OF PRINCIPLES, AN ENDORSEMENT OF EXISTING FRONTIERS, WILL REMAIN A CENTRAL ISSUE. THE FRG IN PARTICULAR REQUIRES SOME FORMULATION WHICH LEAVES OPEN THE POSSIBILITY OF PEACEFUL CHANGE. THE ISSUE IS PRESENTED BY THE SOVIET DRAFT ON BOTH INVIOABILITY OF FRONTIERS AND TERRITORIAL INTEGRITY. FOR THE EC-NONE, THE LIMITS OF ACCEPTABLE COMPROMISE WILL BE SET BY THE FRG, WHICH HAS ALREADY BACKED OFF FROM ITS OWN PAPER TABLED ON SEPTEMBER 24, A PAPER WHICH QUITE PROPERLY DEFINED INVIOABILITY OF FRONTIERS AS AN ASPECT OF NONUSE OF FORCE. THE US WILL BE ABLE TO RELY ON THE FRG TO PRESERVE SOME POSSIBILITY FOR PEACEFUL CHANGE IN FRONTIERS, BUT NOT THE TRADITIONAL NONUSE OF FORCE LINKAGE.

D. RESPECT FOR THE POLITICAL, ECONOMIC, AND CULTURAL FOUNDATIONS OF OTHER STATES. THE SOVIET ATTEMPT TO INTRODUCE THIS SORT OF LANGUAGE INTO THE NONINTERVENTION PRINCIPLE, ALONG WITH EFFORTS ELSEWHERE (E.G. IN THE HUMAN RIGHTS AREA) IS RECOGNIZED BY THE CONFIDENTIAL

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WESTERN DELEGATIONS AS AN EFFORT TO BROADEN THE SCOPE OF THE NONINTERVENTION RULE BEYOND COERCIVE GOVERNMENTAL MEASURES IN ORDER TO CREAT SOME IMMUNITY FOR THE EASTERN EUROPEANS FROM HOSTILE CRITICISM AND PRESSURES FOR CHANGE. IT IS UNLIKELY THAT THE SOVIETS WILL OBTAIN THE ADOPTION OF LANGUAGE WHICH CLEARLY HAS THE MEAMING THEY DESIRE,ALTHOUGH THEIR FORMULATIONS MAY BE REFLECTED AMBIGUOUSLY IN THE FINAL DRAFT.

E. INTERNATIONAL ASPECT OF HUMAN RIGHTS MATTERS. THIS AS A CENTRAL ISSUE IN THE DISCUSSION OF THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS PRINCIPLE. THE EAST HAS CLEARLY LAID DOWN ITS THEORY ON THE DOMESTIC NATURE OF IMPLEMENTATION, AND THE DEPENDENCE AND SUBORDINATION OF THE PRINCIPLE OF HUMAN RIGHTS AS AN INTERNATIONAL MATTER TO THE PRURSUIT

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